

UNITED STATES DISTRICT COURT  
District of Maine

DANIEL CHASE,	)	
	)	
Plaintiff	)	1:20-cv-00287-JAW
	)	
vs.	)	
	)	
JEFFREY KINNEY, DANIEL	)	
PLACE, DAVID FARRAR, MICHEL	)	
PINA, AND DYLAN HALL, and	)	
CITY OF BANGOR,	)	
	)	
Defendants	)	

**DEFENDANTS, CITY OF BANGOR, JEFFREY KINNEY, DANIEL PLACE,**

**DAVID FARRAR, MICHAEL PINA, AND DYLAN HALL'S**

**AFFIRMATIVE DEFENSES AND ANSWER TO**

**PLAINTIFF, DANIEL CHASE'S AMENDED COMPLAINT**

**NOW COME** the Defendants, City of Bangor, Jeffrey Kinney, Daniel Place, David Farrar, Michael Pina, and Dylan Hall (herein after referred to as "Bangor Defendants") by and through their counsel, Richardson, Whitman, Large & Badger, and hereby assert affirmative defenses and answer Plaintiff Daniel Chase's Amended Complaint as follows:

**\*Note\*** currently, there is a Recommended Decision dismissing various Parties and Counts. Defense Counsel Answers for all Defendants in light of the procedural posture.

## **ANSWER**

### **GENERAL DENIAL**

Defendants, Bangor Defendants, deny each and every allegation in the Amended Complaint, which has not been specifically admitted.

#### **I. Parties to This Complaint**

A. Plaintiff is listed.

B. Defendants are listed. Defense Counsel responds for all Defendants except for Steven Buzzell.

#### **II. Basis for Jurisdiction**

II. and II. A. Bangor Defendants admit that 42 USC 1983 and the Americans with Disability Act are Federal Statutes. All other allegations call for a legal conclusion and, therefore, are denied.

#### **3. The Amount in Controversy**

Bangor Defendants deny all allegations contained in Paragraph 3, The Amount in Controversy, of Plaintiff's Amended Complaint.

#### **III. Statement of Claim**

Bangor Defendants admit Plaintiff Daniel Chase was the subject of a stop by Bangor Police Department on Broadway, on April 16, 2018.

1. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

2. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

3. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

4. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

5. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

6. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

7. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

8. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

9. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

10. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

11. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

12. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

13. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

14. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

15. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

16. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

17. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

18. Bangor Defendants admits, in part, the allegations contained in this Paragraph of Plaintiff's Amended Complaint. The Bangor Police Officers are trained. Bangor Defendants deny all other allegations contained in this Paragraph of Plaintiff's Amended Complaint.

19. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

20. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

21. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

22. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

23. Bangor Defendants deny the allegations contained in this Paragraph of Plaintiff's Amended Complaint.

#### **IV. Relief**

Bangor Defendants deny that Plaintiff is entitled to any judgment, damages, or relief whatsoever against it based upon the alleged claims for relief, including the specific remedies requested in Plaintiff's prayer for relief.

#### **AFFIRMATIVE DEFENSES**

Defendants, Bangor Defendants, reserve the right to assert, as appropriate at trial, any of the following affirmative defenses:

- A. The Amended Complaint, and each of its causes of action, fails to state facts sufficient to constitute a cause of action.

- B. Plaintiff has waived the right to pursue the Amended Complaint, and each of its causes of action, by reason of his own actions and course of conduct.
- C. Plaintiff may not recover damages in this action because, under the circumstances presented, it would constitute unjust enrichment.
- D. Plaintiff is not entitled to recover any punitive damages, and any allegations in support of a claim for punitive damages should be stricken, because the acts and omissions alleged are too vague to permit the imposition of punitive damages, and because any award of punitive damages in this action would violate Defendants' constitutional rights under the due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution, and the excessive fines and cruel and unusual punishment clauses of the Eighth Amendment to the United States Constitution, as well as other provisions of the United States Constitution and the Maine Constitution.
- E. The causes of action fail as to individual Defendants because individual employees and/or supervisors cannot be liable for the conduct alleged in those claims.
- F. The Plaintiff's action is barred because Defendants were unable to reasonably accommodate Plaintiff's alleged disability.
- G. The Amended Complaint, and each of its causes of action, is barred because all of Defendants' actions with respect to Plaintiff were taken

solely for legitimate, reasons unrelated to any alleged protected expression or activity by Plaintiff or any alleged discrimination retaliation.

H. Defendants are entitled to qualified immunity for allegations contained in the Amended Complaint.

I. Defendants are entitled to immunity for allegations contained in the Amended Complaint.

J. Plaintiff's Amended Complaint is barred by the applicable Statute of Limitations.

K. The Plaintiff's Amended Complaint is barred by the doctrine of waiver.

L. The Plaintiff's Amended Complaint is barred for lack of notice.

M. The Plaintiff's Amended Complaint is barred due to Insufficiency of Process and/or Insufficiency of Service of Process.

N. Defendants have at all times acted fairly, in good faith, with due care, and in accordance with law.

**WHEREFORE**, Bangor Defendants, respectfully request that the Court dismiss with prejudice and/or deny Plaintiff's Amended Complaint in its entirety as against them

and enter judgment in these Defendants' favor and award costs, attorneys' fees, and such other and further relief as the Court deems just and proper.

DATED: April 15, 2021

/s/ Frederick F. Costlow

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Attorney for Bangor Defendants

### **CERTIFICATE OF SERVICE**

This is to certify that on this 15th day of April 2021, Bangor Defendants' Affirmative Defenses and Answer to Plaintiff, Daniel Chase's Amended Complaint was electronically filed with the Court using the CM/ECF system, which will see that a conformed copy of this filing will be served upon the following:

1. Daniel Chase, Pro Se Plaintiff

By Regular U.S. Mail at:

Daniel Chase

177 Brann Road

Levant, ME 04456

2. Frederick F. Costlow, Esq.; Attorney for Bangor Defendants; VIA EMAIL at [fcostlow@rwlb.com](mailto:fcostlow@rwlb.com).

/s/ Frederick F. Costlow

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Attorney for Bangor Defendants